

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

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COUNSEL/PARTIES OF RECORD	
AUG 17 2006	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

IN THE MATTER OF THE)
SEARCH OF:)

3:06-CV-0263-BES/VPC

The Residence Located at 12720)
Buckthorne Lane, Reno, Nevada,)
and Storage Units 136, 140, 141,)
142, and 143, Double R Storage,)
888 Maestro Drive, Reno, Nevada.)

SEALED
MINUTES OF PROCEEDINGS

DATED: August 17, 2006

PRESENT: THE HONORABLE VALERIE P. COOKE, MAGISTRATE JUDGE
Deputy Clerk: Lisa Mann Court Reporter: Kathryn M. French
Counsel for Movant(s): Michael Flynn, Carla Dimmare, and Eric Pulver
Counsel for Respondent(s): Paul Pugliese

PROCEEDINGS: FINAL SEALED EVIDENTIARY HEARING

8:43 a.m. Court convenes.

The Court addresses the parties regarding an order the Court issued on August 16, 2006, regarding the protocol for this hearing.

8:48 a.m. Michael Flynn, Esq., continues examination of Special Agent, Michael West.

The parties stipulate to have Exhibit #29 marked into evidence; therefore, Exhibit #29 is admitted.

9:25 a.m. Paul Pugliese, Esq., begins examination of Special Agent, Michael West.

The government moves to have Exhibit #30 marked into evidence. The movants stipulate; therefore, Exhibit #30 is admitted.

9:52 a.m. Court recesses.

10:06 a.m. Court reconvenes.

The parties stipulate that Exhibit #31 be marked into evidence; therefore, Exhibit #31 is admitted.

In the Matter of the Search of: The Residence Located at
12720 Buckthorne Lane, Reno, Nevada, and Storage Units
136, 140, 141, 142, and 143, Double R Storage, 888 Maestro
Drive, Reno, Nevada.
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11:00 a.m. Court recesses.

1:42 p.m. Court reconvenes.

The government continues with the examination of Special Agent, Michael West.

The government's Exhibit #32 and Exhibit #33, Exhibit #34, and Exhibit #35 are admitted into evidence.

2:45 p.m. The government concludes its examination and the movants begin their rebuttal examination of Special Agent, Michael West.

The movants' exhibit #36 is admitted.

3:30 p.m. Court recesses.

3:47 p.m. Court reconvenes.

The movants conclude their rebuttal examination and Special Agent, Michael West is excused.

The Court addresses the parties regarding the two binders of exhibits 1 through 28 submitted by the movants.

The parties advise the Court that with respect to the two binders of exhibits submitted by the movants, the parties stipulate to the admission of exhibits 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 19, 22, 23, 24, 26, 27, and 28.

The Court and the parties discuss the objections of the government to movants' exhibits 6, 11, 14, 20, 21, and 25.

The Court having heard from the parties and good cause appearing finds as follows:

1) Movants' exhibit #6 - Declaration of Michael Flynn, Esq.:

Exhibit #6 is admitted.

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2) Movants' exhibit #11 - Declaration of Dennis Montgomery:

The movants advise the Court that they will submit the original signed declaration of Dennis Montgomery. The Court finds that exhibit #11 is admitted subject to the submission of the original signed declaration of Dennis Montgomery being submitted no later than **5:00 p.m.** today.

3) Movants' exhibit #14 - U.S. Department of Justice's Report dated October 2004:

The movants have supplied as exhibit #14 excerpts of the U.S. Department of Justice's Report dated October 2004. The Court finds that the entire report shall be submitted and is admitted as exhibit #14. The government submits the U.S. Department of Justice's Report dated October 2004 in open court.

4) Movants' exhibit #20 - Excerpts of testimony of Sloan Venables, Warren Trepp, and Dennis Montgomery from 2/27/06 preliminary injunction hearing in *eTreppid, et al. v. Montgomery, et al.*:

The government withdraws its objection to exhibit #20; therefore, exhibit #20 is admitted.

5) Movants' exhibit #21 - Federal Bureau of Investigation Manual:

The parties stipulate to the admission of exhibit #21 and agree that for the limited purpose of Mr. Flynn's questions to Special Agent, Michael West, regarding this manual, Special Agent, Michael West did not rely on this manual and this manual may or may not be the current version of the Federal Bureau of Investigation manual.

6) Movants' exhibit #25 - U.S. Department of Justice's manual for searching and seizing computers:

The government withdraws its objection to exhibit #25; therefore, exhibit #25 is admitted.

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The Court and the parties discuss the movants' request to admit additional exhibits. The movants' exhibits #37, #38, and #39 are admitted.

The Court and the parties discuss the government's request to admit additional exhibits. The government's exhibit #40 and #41 are admitted.

The Court and the parties discuss the “*in camera*” admission of reports and back up information from Special Agent, Michael West. The movants’ objection is overruled and the reports and back up information of Special Agent, Michael West shall be submitted “*in camera*”.

IT IS ORDERED that the parties submit simultaneous points in authorities regarding this matter no later than **Friday, September 15, 2006**. The Court will then issue its report and recommendation to the District Court.

5:08 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: /s/
Lisa Mann, Deputy Clerk

PAGE NO. 1 EXHIBITS ON BEHALF OF: PLAINTIFFS + RESPONDENT

CASE NAME: V. [REDACTED] CASE NO. 3:06-cv-263-BES-VPC

IN THE MATTER OF THE SEARCH OF RESIDENCE 12720 BUCKTHORNE LANE...

DATE ADMITTED	DATE MARKED	IDENTIFICATION		DESCRIPTION OF EXHIBIT	LOCATION	RELEASED	
		NO.	WITNESS			DATE	SIGNATURE
8/17/06	8/17/06	29	SPECIAL AGENT MIKE WEST	MONTGOMERY'S SCHEDULE K-1'S FROM 1999 TO 2002..			
8/17/06	8/17/06	30	SPECIAL AGENT MIKE WEST	AMENDED + RESTATED OPERATING AGREEMENT OF STREPPID DATED 11/1/01.			
8/17/06	8/17/06	31	SPECIAL AGENT MIKE WEST	CONTRIBUTION AGREEMENT DATED 9/28/98			
8/17/06	8/17/06	32	SPECIAL AGENT MIKE WEST	CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT			
8/17/06	8/17/06	33	SPECIAL AGENT MIKE WEST	COMPLETE TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING DATED 2/7/06.			
8/17/06	8/17/06	34	SPECIAL AGENT MIKE WEST	DEPARTMENT OF DEFENSE CONTRACT SECURITY CLASSIFICATION SPECIFICATIONS (DD FORM 254)			

PAGE NO. 2EXHIBITS ON BEHALF OF: MOVANTS + RESPONDENT

CASE NAME: _____

CASE NO. 3:06-cv-263-BES-VPC

IN THE MATTER OF THE SEARCH OF RESIDENCE 12720 BUCKINGHAME LANE ...

DATE ADMITTED	DATE MARKED	IDENTIFICATION		DESCRIPTION OF EXHIBIT	LOCATION	RELEASED	
		NO.	WITNESS			DATE	SIGNATURE
8/17/06	8/17/06	35	SPECIAL AGENT MIKE WEST	COMPACT DISC OF PHOTOGRAPHS OF SEARCH			
8/17/06	8/17/06	36	SPECIAL AGENT MIKE WEST	PHOTOGRAPHS OF SEARCH			
8/17/06	8/17/06	37	SPECIAL AGENT MIKE WEST	CAMPAIGN CONTRIBUTIONS LIST TO JAMES GIBBONS FROM WARREN TREPP.			
8/17/06	8/17/06	38	SPECIAL AGENT MIKE WEST	SECOND DECLARATION OF DENNIS MONTGOMERY			
8/17/06	8/17/06	39	SPECIAL AGENT MIKE WEST	PROGRESS REPORT OF THE DEPARTMENT OF JUSTICE'S TASK FORCE ON INTELLECTUAL PROPERTY DATED JUNE 2006			
8/17/06	8/17/06	40	SPECIAL AGENT MIKE WEST	MEMO FROM PAUL RUGLIESE TO ERIC PULVAK DATED 8/11/06.			

